

Appl No. 10/740,254
Atty. Docket No. AA-555C
Amtd. Dated June 28, 2006
Reply to Office Action of May 4, 2006
Customer No. 27752

REMARKS

Claims 1-14 are pending in the present application. Claims 4-8 and 12-14 have been withdrawn from consideration and will be canceled upon notice of allowance. No additional claims fee is believed to be due.

The Rejection under 35 U.S.C. §102(b) over Esser et al.

Claims 1-3 and 9 have been rejected under 35 U.S.C. §102(b) as being anticipated by Esser et al., US 6,241,976 (hereinafter “Esser”). Applicants respectfully traverse this rejection. Applicants’ Claim 1 requires that the polyol-in-silicone emulsion consists essentially of the alkyl dimethicone copolyol and the polyol (i.e. the polyol-in-silicone emulsion does not contain materials which may interfere with the stability of the polyol-in-silicone emulsion). Esser teaches an antiperspirant composition containing a structured emulsion of a continuous phase and a disperse phase.

The Office Action states that Applicants have not presented evidence that the presence of additional components would materially affect the basic and novel characteristics of the claimed emulsion. Applicants respectfully submit that page 5, lines 19-26 of the specification explain that in order to obtain a stable polyol-in-silicone emulsion, the polyol-in-silicone emulsion preferably does not contain components other than the alkyl dimethicone copolyol, the polyol, and optional hydrophilic skin treatment agents. The specification further explains that materials which may interfere with the stability of the polyol-in-silicone emulsion, and thus the polyol-in-silicone emulsion should be free of, are: other emulsifiers, lower alcohols, oils including esters and hydrocarbon oils, thickeners including fatty acid, fatty alcohol, and waxes, and more than 0.01% water by weight of the polyol-in-silicone emulsifier. The discussion under Example 2 in Esser indicates that the emulsion of Esser contains materials which may interfere with the stability of the polyol-in-silicone emulsion of the present invention. Esser does not disclose a polyol-in-silicone emulsion that consists essentially of the alkyl dimethicone copolyol and the polyol.

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Applicants contend that the Esser reference does not anticipate Applicants' claims. Therefore, Applicants contend that the present invention is novel in view of Esser and that the rejection should be withdrawn.

The Rejection under 35 U.S.C. 103(a) over Esser et al.

Claims 10-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Esser et al., US 6,241,976 (hereinafter "Esser"). Applicants respectfully traverse this rejection, as the Esser reference does not teach or suggest all of the claim limitations, as required in MPEP 2143.03. Thus, the obviousness rejection given in the Office Action does not establish a *prima facie* case of obviousness. Therefore, Applicants contend that the claimed invention is unobvious and the rejection should be withdrawn.

Applicants' Claim 1 (from which Claims 10-11 depend) requires that the polyol-in-silicone emulsion consists essentially of the alkyl dimethicone copolyol and the polyol (i.e. the polyol-in-silicone emulsion does not contain materials which may interfere with the stability of the polyol-in-silicone emulsion). As discussed above, Esser teaches an antiperspirant composition containing a structured emulsion of a continuous phase and a disperse phase. The discussion under Example 2 in Esser indicates that the emulsion of Esser contains materials which may interfere with the stability of the polyol-in-silicone emulsion of the present invention. Esser does not teach or suggest a polyol-in-silicone emulsion that consists essentially of the alkyl dimethicone copolyol and the polyol. Therefore, Applicants contend that a *prima facie* case of obviousness has not been established, and the claimed invention is not obvious in view of the cited references.

Esser does not teach or suggest all of Applicants' claim limitations. Therefore, Applicants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

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CONCLUSION

In view of the above, Applicants respectfully submit that each of the issues raised by the Office Action has been addressed. Reconsideration and allowance of each of the pending claims is respectfully requested.

Respectfully submitted,
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